

REMARKS

STATUS OF THE CLAIMS

Applicants amended claims 1, 38 and 43, 48, 50 and 71 to render them idiomatically and grammatically correct and to point out particular aspects of the invention, but otherwise has maintained all other claims in their present form. Accordingly, claims 1-8, 24-26, 38-59, and 71 remain pending examination. Applicants believe that no new matter has been introduced by these claim amendments.

ABSTRACT

Changes to the Abstract correspond to changes in the claims. No new matter was introduced by these changes.

EXAMINER'S RESPONSE TO APPLICANT'S PRIOR SUBMISSION

In Section 2 (p. 2) of the aforementioned Non-final Office Action, the Examiner indicates that "The amendment filed on March 16, 2004,... has been considered but is ineffective to overcome the Eggleston et al (6,061,660) and Kamille (5,996,997) references." At the same time, in Section 10 (p. 11), the Examiner indicates that "[Applicants'] arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection." In rejecting the claims, the Examiner relied on U.S. Patent 6,178,408 to Copple et al ("Copple"), singly and in combination with U.S. Patent 6,061,660 Eggleston et al ("Eggleston"), U.S. Patent 5,996,997 to Kamille and alleged knowledge in the art (as to use of which Applicants reserved the right to present arguments in opposition). Copple and the respective combinations of Copple, Eggleston and Kamille are new grounds of rejection.

Based on the foregoing, Applicants find Section 2 to be entirely inconsistent with Section 10 and the new claim rejections. Accordingly, Applicants presume that the apparent misstatement in Section 2 was inadvertent. That is, Applicants take the combination of Section 10 and the reliance on new grounds of rejection to mean that the Examiner considered Applicants' argument effective but moot in light of the new grounds of rejection.

CLAIM OBJECTION

Applicants acknowledge and thank the Examiner for considering and withdrawing the objection to claim 46.

CLAIM REJECTIONS UNDER 35 USC §102

In relying on Copple, the Examiner rejected claims 38-41, 43, 44 and 46-48 under 35 USC §102 as being anticipated by Copple. However, because Applicants believe that Copple does not teach or suggest each and every element of or enable the claimed invention as recited in the above-enumerated claims it does not support these claim rejections.

As to independent claim 38, Copple does not teach or suggest “an agent configured to participate in the auction and any number of other auctions individually or simultaneously as a respective proxy for the user or the business.” In the absence of such teaching Copple does not meet each and every element of the claimed invention as recited in claim 38.

Additionally as to claim 38, Copple does not disclose, for example, a “web server” from which the auction web server and store web server are “accessible to a user for interacting therewith, including for participating in the auction of an item..., the web server, in turn, being accessible to the user from either or both of the auction web server and the store web server.” Rather, Copple merely discloses one or more servers (Copple at Col. 4, lines 27-30).

Without more, it is of no consequence that a prior art system may be described as having one or more servers (whether these servers are connected to the same network or different networks). Accordingly, Applicants believe that Copple does not support a prima facie case of anticipation and enablement of claim 38 under Section 102.

By analogy, independent claim 43 recites “an agent configured to participate in one or more auctions individually or simultaneously as a respective proxy for a user or a business.” Again, Copple fails to meet this limitation and, as a result, it fails to support a prima facie case of anticipation and enablement of claim 43 under Section 102.

Claims 39-41, 44 and 46-48 depend from claims 39 and 43, respectively. These dependent claims are themselves patentably distinguishable from Copple. As to dependent claim 39, for example, Applicants understand Copple to determine the adequacy of the points to cover the value of the item rather than verifying their validity (Copple at Col. 7, lines 28-33). In view of this distinction, with or without the foregoing remarks regarding claim 38, Copple fails to meet all the elements of claim 39. In other words, Copple does not anticipate claims 38 and 43 and, likewise, it does not anticipate dependent claims 39-41, 44 and 46-48.

CLAIM REJECTIONS UNDER 35 USC §103

Further in this Office Action, claims 1-8, 25, 26, 50 and 52-59 are rejected under 35 USC §103 as being unpatentable over Kamille in view of Copple. Claims 24, 51 and 71 are rejected under 35 USC §103 as being unpatentable over Kamille in view of Copple and in further view of Eggleston. Claims 42, 45 and 49 are rejected under 35 USC §103 as being unpatentable over Copple in view of Eggleston. The cited references, however, do not support these claim rejection, either singly or in combination, and in view of the alleged knowledge in the art.

Firstly, the proposed combination of the references is believed to be improper,¹ and, secondly, the combined teachings do not produce the claimed invention even if the proposed combination would have been proper.

As indicated once before and as acknowledged by the Examiner in a prior Office Action,² Kamille does not teach or suggests all the limitations of claims 1-8, 25, 26, 50 and 52-59, particularly as they are now presented. By analogy to and in view of the remarks with reference to claims 38 and 43, Copple does not make up for Kamille's deficiency regarding claims 1-8, 25, 26, 50 and 52-59. For example, claim 1 recites, and Copple fails to disclose, an offline-online points system that includes "an agent configured to participate in the auction and any number of other auctions individually or simultaneously as a respective proxy for the user." Claim 50 recites, and Copple fails to disclose, a method for offline-online handling of points that includes "instantiating an agent for participating as a respective proxy for the user or a business in the auction and any number of other auctions individually or simultaneously."

The claims, 2-8, 25 26, and 52-59, that depend from claims 1 and 50 are therefore also patentably distinguished from Kamille and Copple. Thus, for example, claims 5-8 are not produced by Kamille alone or in combination with Copple whether or not Kamille

¹Kamille U.S. Class 273/139; Eggleston and Copple U.S. Class 705/14. On one hand, Kamille is directed to a probability game system for redeeming a validated game piece on which there is winning a value indication (see, e.g. Figures 1-4C, abstract, and col. 12, lines 15-41). Once Kamille's winning value is exposed on the game piece and the winning value is redeemed, assuming the game piece has been validated, the game piece is no longer valuable. On the other hand, Eggleston is directed to implementing (creating and instantiating) incentive programs purchased by sponsors, instantiating consumer and sponsor web sites and accessing these website to interact with same for registration and obtaining awards. And Copple is directed at redeeming collectible points using on-line bidding for promotional items (See. e.g., Copple Abstract)

teaches a code with any number of characters. Claims 25, 26, 58 and 59 are likewise not produced by Kamille alone or in combination with Copple whether or not Copple discloses a code being fixed to a medium which can be obtained off-line (considering also that it fails to disclose the medium being a bottle cap). For the same reason, Claims 53, and 54 are not produced by Kamille in view of Copple and, in addition, because neither of them disclose the type of auction. Applicants cannot find support in the cited references for the proposition that all types of auctions are known and therefore “little patentable weight is given to the type of auction or how the auction is run” is not supported by the cited references. The fact that an auction is known in one context does not automatically make it evident that it is applicable in another context, i.e., the context of the claimed invention. And without producing references to show that all auctions types are known and applicable in the context of the claimed invention there is no support for this proposition. In other words, the teachings in Kamille in combination with Copple do not anticipate claims 1, 50 and their respective dependent claims 2-8, 2-8, 25 26, and 52-59.

The same applies to claims 24, 51 and 71. In particular, there is no support in the references, Kamille, Copple and Eggleston, for the proposition that because encryption is known it was ever used in the context of the claimed invention as recited in the above-enumerated claims. Moreover, claim 71 also recites “an agent configured to participate as a respective proxy for their user in one or more auctions individually or simultaneously.” As remarked above with regards to the other independent claims, among other things, Copple does not teach or suggest the “agent...” and Kamille and Eggleston do not teach it either.

CONCLUSION

For the reasons as outlined above, independent claims 1, 38, 43, 50 and 71 are patentably distinguished from and are therefore allowable over the cited references and the alleged knowledge in the art. For the same reasons that apply to the independent claims, as well as for the various specific reasons as mentioned above, the respective dependent claims 2-8, 24-26, 38-42, 44-49, and 51-59 are also allowable over the cited reference and the alleged knowledge in the art.

²Office Action dated 3/9/2004, pages 2, section 1, and pages 5 et seq.

Therefore, reconsideration and withdrawal of the claim rejections are therefore respectfully requested. As the application is believed to be ready for allowance, a Notice of Allowance of these claims is hereby respectfully requested.

Authorization is hereby given to charge any fee deficiency or credit any overpayment to Deposit Account 50-2778. Should any matter remain unresolved or if any question remains unanswered the Examiner is kindly invited to contact the undersigned Applicant's attorney at (650) 813-4873.

Date: August 17, 2004

Respectfully submitted



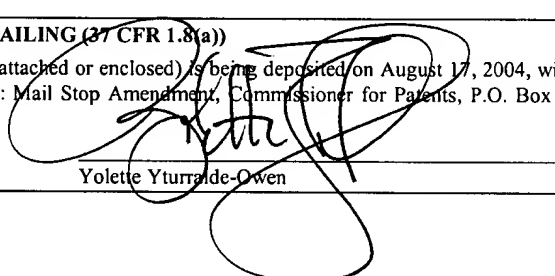
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CERTIFICATE OF MAILING (37 CFR 1.8(a))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited on August 17, 2004, with the U.S. Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450.

Date: August 17, 2004



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